

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Item #16 (Rev. 1)

Agenda ID # 13177

RESOLUTION E-4671

August 28, 2014

ENERGY DIVISION

R E S O L U T I O N

Resolution E-4671. Liberty Utilities LLC (Liberty Utilities) Notice of Proposed Construction Project Pursuant to General Order 131-D for improvements to the 14.4 kV 7203 Distribution Line.

PROPOSED OUTCOME:

- This Resolution approves Liberty Utilities Advice Letter 35-E, with an effective date of today. Pursuant to the California Public Utilities Commission's (CPUC) General Order (GO) 131-D, Section XI, Subsection B.4, of the construction of facilities that are exempt from a Permit to Construct (PTC) application.

SAFETY CONSIDERATIONS:

- Construction of improvement to Liberty Utilities' 14.4 kV 7203 distribution line must conform to the CPUC's GO 95 requirements for overhead line design, construction, and maintenance to ensure adequate service and secure safety to persons engaged in the construction, maintenance, operation, or use of overhead lines and to the general public. Additionally, the CPUC requires utilities to employ certain measures to reduce public exposure to Electro Magnetic Fields (EMF).

ESTIMATED COST:

- The 7203 Distribution Line Project is estimated to cost \$2.3 million.

By Advice Letter 35-E Filed on June 13, 2014.

SUMMARY

This Resolution approves Liberty Utilities (Liberty) Advice Letter (AL) 35-E, with an effective date of today. On June 13, 2014 Liberty filed AL 35-E, submitting notice pursuant to CPUC GO 131-D, Section XI, Subsection B.4, of the

construction of facilities that are exempt from a Permit to Construct. Liberty proposes to reductor an approximately 1-mile section of its 7203 distribution line. The reductoring will be on the section of the 7203 distribution line which begins at the NV Energy-owned Truckee Substation and extends approximately 7 structures south of the Martis Substation within the town of Truckee. The Project meets the specific exemption requirements of GO 131-D, Section III, Subsection B.1, specifically Subsections 1(b), and (g). Thus, Liberty is not required to file a PTC application for this project.

The protest to Advice Letter 35-E fails to state a valid reason for rejecting the Advice Letter pursuant to GO 131-D. Thus, the protest is dismissed.

BACKGROUND

On May 15, 2014, Liberty submitted a Notice of Proposed Construction for a 1.1 mile section of its 14.4 kV 7203 distribution line in the town of Truckee. The northern portion of the 7203 distribution line runs between NV Energy's Truckee Substation and the Truckee Donner Public Utility District's (TDPUD) Martis Substation. The northern portion of the 7203 distribution line is underbuilt on the 120 kV 132 power line, which is owned and operated by Nevada Energy (NV Energy). The southern portion of the 7203 distribution line is underbuilt on Liberty's 60 kV 650 power line. On the 1.1 mile segment that is the subject of Liberty's AL 35-E, Liberty proposes to replace the distribution conductor with larger-diameter, higher current rated, conductor to maintain adequate distribution line capacity necessary for the safe and reliable delivery of electric service to Liberty's customers. The current conductor is .447 inches in diameter and weights 183 lbs. per 1000 linear feet. The proposed conductor is 1.026 inches in diameter and weights 745 lbs. per 1000 linear feet. Specifically, the 7203 Distribution Line Project will allow Liberty to support approximately five Megawatts (MW) of additional load on the 7203 distribution line, which will help Liberty meet anticipated peak energy demand during the winter of 2014/15.

Changing out the existing distribution conductor to larger diameter and heavier conductor on this portion of the 7203 distribution line will increase the amount of weight and wind loads that the power poles must support. These power poles hold not only the 7203 distribution line, but also Liberty's 60 kV 650 Line and NV Energy's 120 kV 132 Line. In order to support the new distribution conductor, and satisfy applicable safety and reliability standards, Liberty has determined that it is necessary to replace 23 existing wood power poles with self-

weathering dark brown steel poles that are stronger and more resistant to wild fires. Liberty is proposing to replace these same wood poles with steel poles as part of its larger 625/650 Line Upgrade Project (A.10-08-024), currently undergoing environmental review. Liberty claims that the most cost effective approach is for Liberty to replace these wood poles with steel poles at this time that could support the larger 625/650 Line Upgrade Project. Liberty may be over-engineering the poles at this time for the 7203 Distribution Line Project, in order to eliminate the possibility that the new poles would have to be replaced well before their useful life expectancy, if the 625/650 Line Upgrade Project is ultimately approved by the Commission.

The existing wood poles are approximately 70 feet in height and 18.2 inches in diameter at ground height. The new steel poles will be approximately the same height (an average of 75 feet above the ground) and diameter (an average of 25 inches at ground height) as the existing wood poles. However, two of the new steel poles will be self-supporting, placed on concrete foundations and will be 50" in diameter. Nineteen of the replacement poles will not require any new access and will be placed in approximately the same location as the existing wood poles. Four poles, however, will be moved a short distance in coordination with the Town of Truckee to accommodate a City plan to widen and install a bike lane on Glenshire Drive in the summer of 2014. All 23 replaced poles will continue to be located on private parcels and within the existing easements. Liberty proposes to commence construction in approximately August 2014 with the objective that the new facilities be operational as of September 2014.

NOTICE

Notice of AL 35-E was made by publication in the Commission's Daily Calendar. Liberty states that a copy of the Advice Letter was mailed and distributed in accordance with Section 4 of General Order 96-B.

PROTESTS

Advice Letter AL 35-E was protested by the North Tahoe Citizen Action Alliance (NTCAA).

DISCUSSION

On June 3, 2014 NTCAA protested AL 35-E. In their protest NTCAA finds 5 main concerns with the 7203 Distribution Line Project noticed in AL 35-E:

1. On Liberty's website, the 7203 Alternative Feed is a project identified as completed in October 2013, to "provide back-up power from the Truckee Substation to the Northstar Village area and vice versa from Northstar substation to Martis Camp/Lahontan/Schaffer's Mill areas." NTCAA asks a number of questions related to "the primary electrical feed" into the area, the costs and benefits of the 7203 Alternative Feed Project, specifically, was it added to Liberty's rate base, and if so, how were costs allocated.
2. NTCAA questions why Liberty needs to reconductor a portion of the 7203 distribution line to support another 5 MW of load if the previous work on the 7203 distribution line was completed in October 2013; NTCAA requests the specification of current and proposed 7203 conductor.
3. NTCAA argues that Liberty should produce expert technical proof that the larger conductor proposed for the 7203 distribution line is responsible for triggering the replacement of 23 power poles.
4. NTCAA is concerned that most of the proposed construction occurs on NV Energy owned transmission facilities.
5. Finally, NTCAA believes that ratepayers are being asked to pay for improvements to facilities owned by another utility company. NTCAA seems to argue that Section II of GO 131-D assumes that the utility owns the facilities and that the cost would be added to the utility's rate base.

On June 13, 2014, Liberty responded to NTCAA's protest of AL 35-E. Liberty argues that Section XIII of GO 131-D purposely restricts the ground on which a party may challenge a notice of exemption from the PTC Application process submitted in accordance with GO 131-D. The protest must state a "valid reason to believe" that either:

1. Any of the three environmental conditions described in Section III.B.2 exist; or
2. The utility has incorrectly applied an exemption as defined in Section III.

Liberty argues that the protest makes no assertion that the Project involves anything other than replacement of “existing power line facilities or supporting structures with equivalent facilities or structures,” which will remain located within an “existing...public utility easement.” As such, the CPUC Executive Director should dismiss the protest because none of NTCAA’s arguments challenge the Notice’s assertion that the Project qualifies for the GO 131-D exemptions.

Liberty asserts that all five of NTCAA’s stated concerns are irrelevant and do not represent valid grounds to claim that that the Project does not qualify for any one of the four exemptions claimed in the AL 35-E.

Liberty states that the Alternative Feed Project was an entirely separate project that Liberty completed on a different portion of the 7203 distribution line in 2013 designed to improve operational capability. Other than the coincidence that both of these projects enhance reliability on the 7203 line, Liberty contends there is no nexus between them.

Liberty states NTCAA’s concern related to ratemaking for the costs associated with the 7203 distribution line have no relationship to either the Section III.B.2 CEQA conditions, or the qualification of the Project for the GO 131-D exemptions.

Next, Liberty answers NTCAA’s allegations that the Project’s reconductoring of the line with larger wire will not necessitate replacement of the current wood poles with new steel poles. The notice explains clearly that changing out the existing distribution wire to a larger wire will increase weight and wind loads that the power poles must support, and new steel poles are required to meet GO 95 loading requirements. Furthermore, GO 131-D does not require the utility to provide “expert technical proof” that stronger poles are needed.

Liberty rejects the NTCAA suggestion that because most of the proposed reconductor occurs on NV Energy-owned poles, ratepayers should not be required to pay for the distribution improvements. Liberty points out that rate recovery issues are not relevant to GO 131-D exemptions.

Finally, Liberty rejects the NTCAA assertion that GO 131-D exemptions are limited to facilities owned by the requesting utility.

On June 26, 2014, in a distributed e-mail outside the established GO 131-D process, NTCAA submitted a reply to Liberty's June 13, 2014, response to NTCAA's protest of AL 35-E. NTCAA states their concern with the Liberty response being focused on process issues. NTCAA disputes Liberty's claim of GO 131-D, Section III, Subsection B.1. (b)(c)(e) and (g).

Regarding B.1.(b), NTCAA believes that the increased ampere capacity of the conductor being installed and the fact that new steel poles are required to accommodate the increased weight and wind loading that result, is proof that the proposed and existing facilities are not equivalent.

NTCAA points out that the proposed length of the reconductor does not conform to the 2000' limitation of B.1. (c). Additionally, NTCAA believes that B.1 (e) does not apply because the new conductor will not be placed on existing poles, but will instead require new steel poles.

NTCAA contends that B.1.(g) doesn't apply because it refers to a condition dependent on the findings of a final CEQA environmental study.

NTCAA contends a discrepancy exists between the project proposed in the Notice of Construction and the project as described in the Liberty 625/650 Line Upgrade Project Proponents Environmental Assessment.

NTCAA contends that the 7203 distribution line is for back-up redundancy for the Martis Camp and Lahontan enclaves, and not peak period system wide reliability as claimed by Liberty.

Finally, NTCAA takes issue with full rate recovery from all Liberty customers.

On July 2, 2014, Liberty responded to the June 2, 2014, NTCAA e-mail. Liberty responded by first pointing out that the NTCAA reply was procedurally improper regarding the definitive process established by GO 131-D.

Liberty disputes the NTCAA claim that exemption B.1.(g) is reliant on a Negative Declaration or on the finding of no significant environmental impact in an Environmental Impact Report. Liberty points out that Section B.1 (g) also exempts construction projects consisting of "power line facilities or substations ...located in an existing franchise, road widening setback easement, or public

utility easement.” Liberty reports that all project construction will be conducted within an existing public utility easement.

Next, Liberty argues that there is no discrepancy between the Notice’s project description and the 625/650 Upgrade Project description. Liberty reports that the map contained in the 625/650 PEA is outdated and NTCAA should have referenced the recently released 625/650 Upgrade Project EIR/EIS/EIS which indicates the entire upgraded 650 line will be supported by steel poles.

The Commission has reviewed AL 35-E, and finds that Liberty’s proposed reconductor of the 7203 distribution line is in compliance with two of the GO 131-D exemptions claimed by Liberty. Furthermore, the Commission finds that the protest by NTCAA doesn’t demonstrate that the project fails to meet the PTC exemption requirements of GO 131-D. The Commission finds that the project meets the two GO 131-D exemption criteria: Section III.B.(b) “the replacement of existing power line facilities or supporting structures with equivalent facilities for structures” and Section III.B.1(g) “power line facilities or substations to be located in an existing franchise, road-widening setback easement, or public utility easement...”

GO 131-D Section III.B2 states that the exemptions shall not apply when any of the conditions specified in CEQA guidelines Section 15300.2 exist:

(a) there is reasonable possibility that the activity may impact on a resource of environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law by federal, state, or local agencies; or (b) the cumulative impact of successive projects of the same type in the same place, over time is significant; or (c) there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.

NTCAA’s protest also fails to demonstrate that any of the GO 131-D exceptions, which would require Liberty to file a PTC application, exist.

Thus, the protest should be dismissed. Pursuant to the plain language of GO 131-D, Liberty is not required to file a PTC application to construct the 7203 Distribution Line Project.

COMMENTS

Public Utilities Code section 311(g)(1) provides that this resolution must be served on all parties and subject to at least 30 days public review and comment prior to a vote of the Commission. Section 311(g)(2) provides that this 30-day period may be reduced or waived upon the stipulation of all parties in the proceeding.

The 30-day comment period for the draft of this resolution was neither waived nor reduced. Accordingly, this draft resolution was mailed to parties for comments on July 25, 2014, and was placed on CPUC's agenda no earlier than 30 days from the mail date.

On August 17, 2014, NTCAA sent an email to Energy Division entitled "7203 line specs." We are treating this email correspondence as formal comments for this resolution.

On August 18, 2014, Liberty Utilities filed comments for this resolution.

A summary of the comments submitted by the parties and the revisions to this Resolution in response to the comments are provided below.

Liberty Comments

Liberty supports the Draft Resolution with modification. In its comments, Liberty notes that there's one factual error related to the geographical description of the project on page 2 of the Draft Resolution under "SUMMARY." Liberty states the approximately 1-mile section of the 7203 distribution line "begins at NV- Energy-owned Truckee Substation and extends to approximately 7 structures south of the Martis Substation" and not "between the Martis Substation and Liberty Utility's Northstar Substation within the town of Truckee," as stated in the Draft Resolution.

We have modified the language in the "SUMMARY" section to reflect Liberty's comments.

NTCAA Comments

NTCAA requests justification of the proposed conductor size and weight and the pole replacement necessary to support the proposed conductor. NTCAA argues that based on the diameter and weight of the proposed conductor, Liberty is

proposing an oversized conductor which would require additional pole replacement. NTCAA contends that a smaller conductor could be used to increase capacity by 5 MW on the distribution line without requiring pole replacement.

NTCAA's comments do not recommend any modifications to the Draft resolution; however, staff has requested Liberty to respond to NTCAA's comments in a data request.

Liberty Response to Staff's Data Request

Staff requested from Liberty Utilities a response to engineering questions raised NTCAA's comments regarding conductor size and weight necessary to meet project objectives. In its response, Liberty asserts that the proposed Project seeks to "maintain adequate distribution line capacity necessary for the safe and reliable delivery of electric service to its customers" and that it has "designed the Project to meet an immediate need (i.e. emergency peak loads in the 2014/2015 winter)...[and] also to best accommodate future and integrated system needs."

With regards to conductor size and weight, Liberty states that "a smaller size conductor would not be able to increase capacity on the affected portion of the 7203 Line by the desired 5 MW due to voltage drops. Additionally, the current transformer capacity limitations at the Truckee substation limit the capacity increase the new conductor offers to the required 5 MW."

FINDINGS

1. On May 15, 2014, Liberty Energy submitted Advice Letter 35-E, Notice for Proposed Construction Project Pursuant to General Order 131-D for Improvements to the 14.4 kV 7203 distribution line.
2. Liberty is proposing to upgrade the conductor on a 1.1-mile section of its 14.4 kV 7203 distribution line, located entirely within the Town of Truckee, California.
3. The 7203 Distribution Line Project will allow Liberty to support approximately 5 MW of additional load on the 7203 distribution line, which will help Liberty meet anticipated peak energy demand during the winter of 2014/2015.
4. Liberty is proposing to replace existing wood poles approximately 70 feet in height and 18.2 inches in diameter, with new steel poles that average 75 feet in height and average 25 inches in diameter at ground height. However,

two new self-supporting steel poles are 50 inches in diameter at ground height.

5. The new steel poles are required to support the increased weight and wind loading forces caused by the new conductor, which is both heavier and of larger diameter.
6. On June 3, 2014, NTCAA protested AL 35-E, outlining several concerns with Liberty's proposed 7203 Distribution Line Project. NTCAA's protest states that the Project does not qualify for an exemption from a Permit to Construct Application under GO 131-D.
7. On June 13, 2014, Liberty submitted a response to the Protest by NTCAA.
8. Energy Division staff reviewed AL 35-E, the NTCAA protest to AL 35-E, and the response to the NTCAA protest by Liberty.
9. NTCAA failed to demonstrate that any of the three environmental conditions described in Section III.B.2 exist, or that Liberty has incorrectly applied an exemption as defined in Section III.
10. Liberty's 7203 Distribution Line Project is exempt from the Commission's PTC application process by qualifying for an exemption under GO 131-D, Section III, Subsection B.(b) & (g).

THEREFORE IT IS ORDERED THAT:

1. The request of Liberty Utilities for approval of AL 35-E is granted.
2. The protest of NTCAA is not a valid protest pursuant to the criteria contained in General Order 131-D.

This Resolution is effective today.

I certify that the foregoing resolution was duly introduced, passed and adopted at a conference of the Public Utilities Commission of the State of California held August 28, 2014; the following Commissioners voting favorably thereon:

PAUL CLANON
Executive Director